

The Honorable Paul B. Snyder  
Chapter 7  
Room 200 Federal Building, Vancouver  
Hearing Date: August 3, 2010  
Hearing Time: 9:00 am  
Response Due: July 27, 2010

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In Re:

DAWSON WARREN BIGLEY and JANICE  
ELAINE BIGLEY,

Debtors.

No. 10-43459-PBS

**MOTION FOR RELIEF FROM STAY OR IN  
THE ALTERNATIVE FOR ADEQUATE  
PROTECTION AND NOTICE OF HEARING**

**NOTICE**

**A hearing on BAC Home Loans's motion will take place on the August 3, 2010 at 9:00 am at the Federal Building, 500 W. 12th Street, Vancouver, Washington. Any response must be filed and served prior to the above response date. If no response is filed within the time allowed, the Court may in its discretion grant the motion prior to the hearing without further notice.**

**MOTION**

BAC Home Loans Servicing, L.P., fka Countrywide Home Loans (hereinafter known as "BAC Home Loans"), moves the Court for an order terminating the automatic stay pursuant to 11 U.S.C. Sections 362 (d)(1) and 362 (d)(2) to permit it and its designated trustee (1) to complete its foreclosure on the following property pursuant to its deed of trust:

LOT 11, BLOCK 6, RYDERWOOD NO. 1, AS RECORDED IN VOLUME 8 OF PLATS, APGE 54, RECORDS OF SAID COUNTY, SITUATE IN COWLITZ COUNTY, STATE OF WASHINGTON.

Commonly known as: 504 Morse Street  
Ryderwood, WA 98581

(2) to take any other action to acquire possession of the property as a result of the foreclosure; and (3) to take any other action permitted under its deed of trust including recovery of attorneys' fees incurred by BAC Home

MOTION FOR RELIEF FROM STAY OR IN THE  
ALTERNATIVE FOR ADEQUATE PROTECTION - 1

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Case 10-43459-PBS Doc 15 Filed 06/25/10 Ent. 06/25/10 14:51:07 Pg. 1 of 3

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1 Loans in this proceeding. In the alternative, BAC Home Loans moves the Court for an order providing  
2 adequate protection for its security. In addition, BAC Home Loans also moves that enforcement of this order  
3 shall not be stayed pursuant to BR 4001 and that this order shall be binding in any proceeding to which this  
4 proceeding is converted and that the order be binding regardless of any subsequent confirmed plan or amended  
5 plan.  
6

7 This motion is made on the grounds that (1) the debtors have failed to maintain the mortgage  
8 payments; (2) the moving party's security interest in the property is not being adequately protected; and (3)  
9 there is no equity in the property and it is not necessary for an effective reorganization.  
10

11 Obligation and Collateral. BAC Home Loans is the holder and owner of a note in the original amount  
12 of \$126,240.00 executed on May 5, 2009, by Dawson W. Bigley and Janice E. Bigley, husband and wife.  
13 This note is secured by a deed of trust of even date on the real property described in the motion, of which the  
14 debtors in this bankruptcy proceeding are now the owners.  
15

16 Status of Loan and Foreclosure. The debtors are contractually delinquent on the monthly payments of  
17 \$859.64 for January 1, 2010 and each month thereafter. There is no foreclosure sale pending.  
18

19 Balance Owning. The principal balance owing on said note is \$125,401.36, and interest thereon has  
20 accrued from December 1, 2009 at the rate of 5.5% per annum. Late charges have accrued as of the date this  
21 declaration was executed and will continue to accrue each month on any payments not made by the due date.  
22 The total amount owing on the debt exceeds \$129,029.43. This total is an approximation of the lien and is  
23 provided only for the purposes of this motion. This figure cannot be relied upon for any other purpose  
24 including tender of payoff funds. An exact, itemized payoff figure can be obtained from BAC Home Loans  
25 upon written request to counsel for BAC Home Loans.  
26

Value. The property is valued at \$122,500.00 in the bankruptcy schedules.

Intent. The debtors' stated intent is to surrender the property.

This motion is based on the motion, the declaration of Yaneli Pinto and the records and files herein. A proposed order is attached.

Dated this 25<sup>th</sup> day of June, 2010.

By: /s/ Daniel L. Hembree  
Daniel L. Hembree, WSBA# 37109  
Bishop, White, Marshall & Weibel, P.S.  
Attorneys for Secured Creditor